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December 11, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**VIA REGULAR MAIL**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: Ex Parte Presentation; RM-9108: Billing and Collection Services Provided by  
Local Exchange Carriers for Non-Subscribed Interexchange Services

Dear Ms. Salas:

On Wednesday, December 9, 1998, the Coalition to Ensure Responsible Billing ("Coalition"), represented by Jacqueline Mitchell of Billing Concepts and Tony Center of Federal TransTel, met with Darius Withers and Dorothy Attwood of the Common Carrier Bureau Enforcement Division. Ms. Mitchell and Mr. Center were accompanied by their counsel, Gary Slaiman and Kristine DeBry of Swidler Berlin Shereff Friedman, LLP.

The Coalition described that competitive telecommunications providers are in jeopardy of losing their ability to bill for their services on the local exchange carrier ("LEC") bill. Further, the Coalition argued that as LECs increasingly offer their own services (for example, voice mail, paging, Internet, interexchange) in competition with parties for whom they bill, the LECs will have an increased incentive to deny billing to third parties while promoting their own services. Recent efforts to reduce cramming have had the unintended consequence of encouraging the LECs to restrict billing for competitive services, even those that have not caused cramming problems. The Coalition argued that the Commission should adopt a rule requiring that a LEC could not discriminate against a competitive provider in billing and collections, while billing its own similar product on the local bill. This requirement should apply to non-subscribed services as suggested by the MCI petition, but also to any other service or product offered by the LEC in competition with other providers.

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A document summarizing the Coalition's position was distributed at the meeting. It is attached. Pursuant to Section 1.1206 of the Commission's Rules, one original and one copy of this letter are being filed with your office. If you have any questions regarding this filing, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kristine DeBry".

Kristine DeBry, Esq.

cc: Ms. Dorothy Attwood  
Mr. Darius Withers

**COALITION TO ENSURE RESPONSIBLE BILLING**  
**PRO-COMPETITIVE POLICIES**  
**FOR**  
**TELECOMMUNICATIONS BILLING AND COLLECTION**

**Overview**

- The Commission should adopt a non-discrimination requirement for local exchange carriers ("LECs") in their provision of billing and collection services for third party telecommunications services.

**The Coalition**

- The Coalition to Ensure Responsible Billing ("Coalition") was formed by the nation's leading billing clearinghouses to promote competition and consumer protection with regard to telecommunications services billed on the local telephone bill.
- Billing clearinghouses perform the vital function of aggregating charges for many small competitive telecommunications providers and submitting them for billing and collection on the LEC bill. This practice fosters competition and affords consumers the convenience of paying for many telecommunications services through a single telephone bill.

**The Threat to Competition**

- As the industry moves to a more competitive model, certain risks to the use of LEC billing and collection services become apparent. Increasingly, LECs -- who exercise near monopoly control over the local telephone service market -- are competing in markets such as voice mail, paging and cellular services. Most importantly, the Regional Bell Operating Companies ("RBOCs") may be permitted to enter the long distance market if the Commission determines that they have complied with the market-opening provisions of Section 271 of the Telecommunications Act of 1996. LECs could discriminate in the provision of billing and collection services in order to hinder competition and promote their own services. Accordingly, LECs have both the incentive and the ability to discriminate in provision of billing and collection services to the detriment of providers of competing telecommunication services.
- LECs could discriminate against competitive providers by giving preferential treatment to their own services over those of competitors when enforcing conditions for appearing on the telephone bill. For example, under the guise of protecting consumers from cramming, a LEC could discontinue billing for a provider who was the subject of a certain number of consumer complaints. In a case where the LEC provided a similar service and received the same or even a greater number of complaints but did not remove its own offering from the local bill, that action would raise competitive concerns.

- Further, as the Commission imposes new requirements on LECs, such as those proposed in the Truth-in-Billing rulemaking, it reduces the incentives for LECs to provide third party billing.
- Competition in billing and collections has not developed as the Detariffing Order anticipated it would. Thus, competitive providers continue to rely heavily on the LEC bill to reach their customers.

### **The Solution**

- The Coalition supports the MCI Petition for Rulemaking in Billing and Collection Services Provided by Local Exchange Carriers for Non-Subscribed Interexchange Services.
- The Commission should go beyond the MCI petition, however, and protect from discrimination all competitive telecommunications services that are billed on the LEC bill -- not just non-subscribed interexchange service. Many other valuable competitive telecommunications services are susceptible to LEC discrimination that could render them ineffective in the market. A LEC could offer and bill its own voice mail or Internet service, for example, while refusing to bill similar competitive services. In these cases, no less than in the case of non-subscribed interexchange service, a LEC could use its control of the local telephone bill to promote itself to the detriment of competition. Also, in these cases, as with non-subscribed interexchange service, the charges are often so small or intermittent that direct billing can be cost-prohibitive.
- In order to protect competition and consumer choice, the FCC should establish a clear non-discrimination requirement for the provision of third party billing and collection services by LECs.